

U S Serial No 10/731,777  
Amendment Dated May 11, 2006  
Response To Final Office Action Dated November 16, 2005

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### REMARKS

The pending application was filed on December 9, 2003 with claims 1-31. The Examiner issued a Non-Final Office Action dated October 21, 2004 in which claims 1-31 were indicated as pending, claims 25-31 were withdrawn from consideration, and claims 1-24 were rejected. A response was filed February 17, 2005 amending the claims and canceling claims 7, 8, 18, 19, and 25-31. Claims 1-6, 9-17, 20-24, and 32-33 were pending in the application. A non-final office action was issued April 5, 2006 in which claims 1-6, 9-17, 20-24 32 and 33 were rejected. A response was filed August 29, 2005.

A final office action was issued November 16, 2005 in which the Examiner rejected all pending claims. More specifically, the Examiner rejected claims 1, 3-6, 12, 14-17, 32 and 33 under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 4,485,991 to *Fuller*, rejected claims 9, 10, 20 and 21 under 35 U.S.C. §103(a) as being unpatentable over *Fuller* in view of United States Patent No. 6,082,671 to *Michelson*, and rejected claims 11 and 22 under 35 U.S.C. §103(a) as being unpatentable over *Fuller* in view of United States Patent No. 4,332,103 to *Shulman*.

Claims 1, 3-6, 9-12, 14-17, 20-24, and 32-33 are pending in the patent application. Claims 1 and 12 have been amended, and claims 34-37 have been added. In view of the arguments below, claims 1, 3-6, 9-12, 14-17, 20-24, and 32-37 are allowable, and the Examiner is respectfully requested to withdraw the rejections and issue a Notice of Allowance.

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## II. REJECTION OF CLAIMS 1, 3-6, 12-17, 32 AND 33 UNDER 35 U.S.C. §103(a)

The Examiner rejected claims 1, 3-6, 12-17, 32, and 33 under 35 U.S.C. §103(a) as being anticipated by United States Patent No. 4,485,991 to *Fuller*. The Examiner argued that, regarding claims 1 and 12, *Fuller* discloses a wing for a micro-air vehicle in figure 2 having at least one layer of resilient material having a camber forming a concave surface facing downward, wherein the wing is bendable from a steady state position in a first direction such that tips of the wing may be bent towards the concave surface but not substantially in a second direction that is generally opposite to the first direction, and the wing is capable of returning to the steady state position by releasing the tips of the wing, as shown in Figure 6. The Examiner argued, regarding claim 13, that *Fuller* discloses at least one layer of a resilient material that comprises a leading edge formed from a first material that is different from the material forming a remainder of the at least one layer. The Examiner admitted that concerning claims 3-6, 14-17, 32 and 33 that *Fuller* does not disclose the selected material groups. However, the Examiner argued that it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a material, because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Citing *In re Leshin* 125 USPQ 416.

As previously discussed, independent claims 1 and 12 have been amended to include, in relevant part, "a plurality of ribs extending from the leading edge in the direction of the

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trailing edge." The plurality of ribs provide structural support to the wing and specifically to the "resilient, flexible material that is different from the material forming the leading edge, extending from the leading edge to a trailing edge . . . ." In stark contrast, the wing disclosed in *Fuller* does not include ribs that extend from the leading edge to the trailing edge to provide structural support to a flexible material forming the wing. In addition, *Fuller* does not disclose a leading edge formed from a different material than the remainder of the layer of resilient material. Rather, *Fuller* discloses an upper skin (11) and a lower skin (12) separated by an expanded plastic (14) positioned between the two layers, as shown in Figure 2 and discussed at column 2, lines 8 and 11-14. Thus, for at least these reasons, independent claims 1 and 12, and those claims depending therefrom, are allowable, and the Examiner is respectfully requested to withdraw the rejection and issue a notice of allowance.

As regarding claims 3-6, 14-17, 32 and 33, the Examiner admitted that *Fuller* does not disclose the selected material groups. The Examiner, however, stated that it would have been obvious to one of ordinary skill in the art at the time the invention was made to select a material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Citing *In re Leshin*, 125 USPQ 416.

*In re Leshin*, as noted above, is directed to choosing a particular plastic for a use in which the use of plastic is already known. *In re Leshin* does not stand for the use of a known material for different application, which is the case in claims 3-6, 14-17, 32 and 33. In the

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instant case, the prior art does not disclose use of the claimed materials for the claimed purpose. Thus, claims 3-6, 14-17, 32 and 33 are allowable. Furthermore, claims 3-6, 14-17, 32 and 33 depend directly or indirectly from independent claims 1 and 12, and are thus allowable. Claims 32 and 33 depend from claims 1 and 12, respectively. For at least these reasons, claims 3-6, 14-17, 32 and 33 are allowable, and the Examiner is respectfully requested to withdraw the rejection.

Claims 23 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable in view of *Fuller*. Claims 23 and 24 depend directly from claim 12, and for at least this reason, are allowable. The Examiner is respectfully requested to withdraw the rejection and issue a Notice of Allowance.

### III. REJECTION OF CLAIMS 9, 10, 20 AND 21 UNDER 35 U.S.C. § 103(a)

The Examiner rejected claims 9, 10, 20 and 21 under 35 U.S.C. § 103(a) as being unpatentable over *Fuller* in view of United States Patent No. 6,082,671 to *Michelson*. The Examiner stated that *Fuller* discloses every aspect of the invention except for the size of the aircraft. The Examiner stated that *Michelson* discloses that it is known in the art to design micro air vehicles no greater than 15 cm in any dimension. The Examiner concluded that it would have been obvious to one having ordinary skill in the art to employ this idea into the device of *Fuller* for the purpose of reducing the visibility of the aircraft from the ground.

Claims 9 and 10 depend from claim 1, which is allowable for the previously set forth reasons, and claims 20 and 21 depend from claim 12, which is also allowable for the

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previously set forth reasons. Therefore, for at least these reasons, claims 9, 10, 20 and 21 are allowable, and the Examiner is respectfully requested to withdraw the rejection.

#### IV. REJECTION OF CLAIMS 11 AND 22 UNDER 35 U.S.C. § 103(a)

The Examiner rejected claims 11 and 22 as being unpatentable over *Fuller* in view of United States Patent No. 4,332,103 to *Shulman*. The Examiner admitted that *Fuller* fails to disclose a riser section forming a concave portion on an upper surface of the wing proximate to a trailing edge of the wing. The Examiner stated, however, that *Shulman* discloses a riser section and that it is a well known design to impart a slight climbing flight characteristic to the glider, as discussed at column 2, line 65. The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the riser design in the wing of *Fuller* for the purpose of increasing the aircraft dependency.

Claims 11 and 22 depend from allowable claims 1 and 12, respectively. Thus, claims 11 and 22 are allowable as written, and the Examiner is respectfully requested to withdraw the rejection.

#### V. NEW CLAIMS

Claims 34-38 have been added. Claims 34 and 36 depend from claim 1, which is allowable as previously set forth, and claims 35 and 37 depend from claim 12, which is also allowable as previously set forth. Claims 34 and 36 limit the ribs to being generally parallel to each other, and claims 35 and 37 state that the ribs are formed of carbon fiber. The new

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claims 34-38 depend from allowable claims 1 and 12 respectively, and thus, the Examiner is respectfully requested to withdraw the rejection and issue a timely Notice of Allowance.

#### **VI. PETITION FOR THREE MONTH EXTENSION OF TIME**

This is a Petition for a Three Month Extension of Time pursuant to 37 CFR § 1.136. Please charge the fee in the amount of \$510.00 for a three (3) month extension of time pursuant to 37 CFR § 1.17(a)(3) and charge any underpayment or credit any overpayment to Deposit Account No. 50-0951. A duplicate copy of this communication is enclosed.

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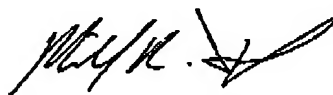
### CONCLUSION

For at least the reasons given above, claims 1, 3-6, 9-12, 14-17, 20-24, and 32-37 define patentable subject matter and are thus allowable. The undersigned representative thanks the Examiner for examining this application.

Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is respectfully requested to contact the undersigned representative at the telephone number listed below.

No fees in addition to the two-month extension of time fee are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 50-0951.

Respectfully submitted,



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